

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved in part; Denied in part; Dismissed in part	<b>Appeal Number:</b>	2414573
<b>Decision Date:</b>	12/19/2024	<b>Hearing Date:</b>	10/24/2024
<b>Hearing Officer:</b>	Scott Bernard		

**Appearance for Appellant:**  
*Pro se via telephone*

**Appearance for MassHealth:**  
Robin Brown OTR/L (Optum) *via telephone*

*The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street, Quincy, Massachusetts 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Approved in part; Denied in part; Dismissed in part	<b>Issue:</b>	Prior Authorization - Personal Care Attendant (PCA) Services
<b>Decision Date:</b>	12/19/2024	<b>Hearing Date:</b>	10/24/2024
<b>MassHealth's Rep.:</b>	Robin Brown OTR/L	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Quincy Harbor South	<b>Aid Pending:</b>	No

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through a notice dated August 26, 2024, MassHealth approved the appellant's PA request for PCA services with modifications. (See 130 CMR 422.410(A)(1),(2),(3),(4), (B)(1), (C)(1); and 450.204(A)(1); Exhibit (Ex.) 1; and Ex. 6, pp. 3-5). The appellant filed this appeal in a timely manner on September 22, 2024. (See 130 CMR 610.015(B) and Ex. 2). Modification of a PA request for PCA services is valid grounds for appeal. (See 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth approved the appellant's request for PCA services with modifications.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 422.410(A)(1),(2),(3),(4), (B)(1), (C)(1); and 450.204(A)(1), in modifying the request for PCA services.

## Summary of Evidence

MassHealth was represented by a registered occupational therapist and a clinical appeals reviewer and the appellant represented herself. Both parties attended the hearing by telephone.

The MassHealth representative testified to the following. According to the documentation submitted to MassHealth for review, the appellant is an individual over the age of 65. (Testimony; Ex. 6, p. 10). The appellant's primary diagnoses are diabetes, depression, history of myocardial infarction (open heart surgery a year ago), and history of traumatic brain injury. (Testimony; Ex. 6, p. 11). On August 20, 2024, AgeSpan Inc. (the PCM agency) submitted an initial prior authorization request for 19 hours and 15 minutes per week of Personal Care Attendant (PCA) services for one year. (Testimony; Ex. 1; Ex. 6, pp. 3-5). In a notice dated August 26, 2024, MassHealth modified the time requested to 10 hours and 30 minutes per week for dates of service from August 26, 2024 through August 25, 2025. (Testimony; Ex. 1; Ex. 6, pp. 3-5). Specifically, MassHealth modified the time requested for 11 activities of daily living (ADLs) and instrumental activities of daily living (IADLs). (Testimony; Ex. 6, pp. 3-5).

During the course of the hearing and after considering the MassHealth representative's testimony, the appellant stated that she did not contest the modifications MassHealth made to the times requested for mobility/one person physical assist with stairs; bathing/physical assist with showering; grooming/hair; and grooming/other. (Testimony; Ex. 6, pp. 15-16, 18-19, 20). At the end of the hearing, the appellant still disagreed with the modifications MassHealth made to dressing, undressing, medication assistance/prefill, meal preparation, laundry, housekeeping, and shopping.

### Dressing and Undressing

The PCM agency requested 10 minutes, one time per day, seven days per week for physical assistance with dressing. (Testimony; Ex. 6, p. 22). The PCM agency also requested eight minutes, one time per day, seven days per week for physical assistance with undressing. (Testimony; Ex. 6, p. 22). According to the Occupational Therapy Functional Status Report the PCM agency submitted as part of this prior authorization, the appellant required minimum assistance with these ADLs. (Testimony; Ex. 6, pp. 6-7). This meant that the appellant was able to do 75% of this ADL and needed assistance with the other 25%. (Testimony). The MassHealth reviewer therefore modified the time requested for dressing to seven minutes, one time per day, seven days per week and for undressing to five minutes, one time per day, seven days per week. (Testimony; Ex. 1; Ex. 6, pp. 4-5). In the notice under appeal, the MassHealth reviewer stated that the time requested for dressing and undressing were longer than ordinarily required with for someone with the appellant's physical needs. (Testimony; Ex. 1; Ex. 6, pp. 4-5).

The appellant stated that she objected to the decrease in time for dressing and undressing. (Testimony). If anything, the appellant required more time than requested. (Testimony). The appellant stated that she gets dizzy when dressing and undressing and therefore needs to sit and rest on occasion during the process. (Testimony). The process, either dressing or undressing,

continues again once the appellant's dizziness subsides and she feels stable. (Testimony). It was explained to the appellant that neither the MassHealth representative in the hearing nor the hearing officer could approve more time than the PCM agency requested. (Testimony). The MassHealth representative had previously explained during the discussion of grooming/other, that MassHealth will only pay for the time the PCA provides hands-on physical assistance only and not for waiting time. (Testimony).

### **Medication Assistance/Prefill**

The PCM agency requested 10 minutes, one time per week for assisting the appellant with the pre-filling of a medication box. (Testimony; Ex. 6, p. 26). The PCM agency stated that the PCA was to fill weekly the appellant's medication planner and set reminders for her because of her forgetfulness with her medications and to ensure her medication compliance because of the appellant's history of traumatic brain injury and depression. (Testimony; Ex. 6, p. 26). The MassHealth reviewer modified the time requested to 0 minutes because the appellant had the physical ability to perform this task without physical assistance. (Testimony; Ex. 1; Ex. 6, pp. 4-5). The OT report states that the appellant is independent with her medications. (Testimony; Ex. 6, p. 7). The MassHealth representative stated that the PCA program only pays for physical assistance with ADLs and IADLs. (Testimony). The appellant may require reminders to take her medication but under the PCA program reminders are considered supervision or coaching, which are both non-covered services. (Testimony). The appellant stated that she does forget to take her medications on time, sometimes not until late in the afternoon and required help in this area. (Testimony).

### **Meal Preparation**

The PCM agency requested 60 minutes per day (total), seven days per week for physical assistance with meal preparation broken down into 10 minutes per day for breakfast, 20 minutes per day for lunch, and 30 minutes per day for dinner. (Testimony; Ex. 6, p. 32). The OT report submitted with the prior authorization stated that the appellant requires maximum assistance with this and all other IADLs. (Testimony; Ex. 6, pp. 7). The PCM agency wrote that the appellant required assistance for the following reasons:

Consumer requires maximum assistance with meal prep- she can warm up a prepared meal, grab item or snack from refrigerator, but standing for long periods of time to prepare heart healthy meal, mix/chopping/stirring foods, etc is difficult for consumer, her spouse is unable to assist d/t his own personal health issues d/t unsteadiness on feet, poor balance, very SOB w/ min exertion, fatigues very easily, dizziness w/ positional changes, left arm weakness (since open heart surgery last year), poor endurance and tolerance w/ activity, whole body weakness, decreased strength, forgetfulness, lack of motivation, energy, and concentration r/t heart disease, diabetes, depression, hx of MI (last year- open heart surgery a year ago), hx of TBI[.] (Ex. 6, p. 32).

MassHealth modified the total to 30 minutes per day because this was an IADL and since the

appellant lived with family members, MassHealth expected those family members to provide non-reimbursable assistance with the appellant's IADLs. (Testimony; Ex. 1; Ex. 6, pp. 3-5). Additionally, MassHealth concluded that the time requested was longer than ordinarily required for someone with the appellant's physical needs. (Testimony; Ex. 1; Ex. 6, pp. 3-5). The MassHealth representative clarified that the time requested for meal preparation did not include time for purchasing food, which was included in the time requested for shopping. (Testimony).

The appellant explained that her husband is unable to participate in meal preparation to a great extent because of his own health difficulties. (Testimony). The appellant explained that meal preparation took longer for her due to her vegetarian diet. (Testimony). She avoids frozen foods, which further extended the time needed to prepare meals. (Testimony). Even 20 minutes was insufficient, and sometimes it took up to 40 minutes to cook and store the food. The appellant self-identified as Indian stating that Indian meals require careful preparation and cannot simply be baked or reheated. (Testimony). The appellant's doctor had informed the appellant of the importance of proper nutrition for her recovery. (Testimony). Due to her lack of stamina for both cooking and shopping, there were times when she and her husband could only have water before bed. (Testimony). Even breakfast took about half an hour to prepare; boiling eggs alone took 10 minutes, and preparing a full vegetarian breakfast required more time. (Testimony). The appellant needed extra time to ensure she received sufficient nutrition, particularly protein, to regain her strength. (Testimony).

The appellant mentioned that after her surgery several changes occurred that made it difficult to prepare meals. (Testimony). Her hands, for instance, experience swelling. Furthermore, her stamina has significantly decreased. (Testimony). The appellant can neither sit nor stand for periods longer than 20 minutes, after which she needs to lie down. (Testimony). Over the last six to eight months, since she has been unable to cook, the appellant and her husband often have had to rely on eating fruit for meals. (Testimony). Sometimes, neither of them can shop, and when someone did shop, they would buy fruit. If they could cook, they did, but at times, they would just eat a banana and go to bed. (Testimony). Since they do not eat meat or pasta, the appellant has been lacking adequate protein in her diet. (Testimony).

The MassHealth representative then stated that based on this testimony, she was willing to offer to increase the time to 45 minutes per day. (Testimony). The appellant stated that she still felt that she required 60 minutes per day, as requested. (Testimony).

## **Laundry**

The PCM agency requested 60 minutes per week for assistance with laundry stating that

Consumer requires maximum assistance with laundry tasks listed above-laundry located in basement of home, consumer cannot safely carry laundry up/down the stairs, once laundry is brought back upstairs, consumer can sit and fold w/ PCA assistance, PCA will put away, spouse unable to assist d/t his own personal health issues d/t unsteadiness on feet, poor

balance, very SOB w/ min exertion, fatigues very easily, dizziness w/ positional changes, left arm weakness (since open heart surgery last year), poor endurance and tolerance w/ activity, whole body weakness, decreased strength, forgetfulness, lack of motivation, energy, and concentration r/t heart disease, diabetes, depression, hx of MI (last year- open heart surgery a year ago), hx of TBI[.] (Testimony; Ex. 6, p. 33).

MassHealth modified the time requested to 30 minutes per week “because you requested assistance with instrumental activities of daily living and you live with family members, and MassHealth expects family members to provide non-reimbursable assistance with your instrumental activities of daily living.” (Testimony; Ex. 1; Ex. 6, pp. 3-5). MassHealth further justified the modification by stating that the time requested was longer than ordinarily required for someone with the appellant’s physical needs. (Testimony; Ex. 1; Ex. 6, pp. 3-5).

The MassHealth representative stated that MassHealth considers the time for assistance with laundry as consisting of the time it takes to carry a load the downstairs to the washing machine, place it in the machine, take it out of the washing machine and put it into the dryer, take it out of the dryer, carry it upstairs, fold it, and put it away. (Testimony). 30 minutes is considered enough time to do two loads of laundry, which is typically very sufficient for someone who does not have incontinence or other medical needs that generate a lot of laundry. (Testimony).

The appellant disagreed with the MassHealth representative’s assessment. (Testimony). The appellant stated that she is completely incapable of assisting with any part of the laundry other than folding. (Testimony). The appellant’s husband does not have any ability to participate in this activity. (Testimony; See Ex. 6, p. 33; Ex. 7).

### **Housekeeping**

The PCM agency requested 60 minutes per week for assistance with housekeeping stating that

Consumer requires maximum assistance with housekeeping tasks within her space, she cannot safely mop, vacuum, sweep, dust, she can do a light cleaning or organization while sitting down, spouse unable to assist d/t his own personal health issue d/t unsteadiness on feet, poor balance, very SOB w/ min exertion, fatigues very easily, dizziness w/ positional changes, left arm weakness (since open heart surgery last year), poor endurance and tolerance w/ activity, whole body weakness, decreased strength, forgetfulness, lack of motivation, energy, and concentration r/t heart disease, diabetes, depression, hx of MI (last year- open heart surgery a year ago), hx of TBI[.] (Testimony; Ex. 6, p. 33).

MassHealth modified the time requested to 30 minutes per week because this is an IADL, the appellant lives with family members, and MassHealth expects family members to provide non-reimbursable assistance with IADLs in addition to the fact that the time requested was longer than ordinarily required for someone with the appellant’s physical needs. (Testimony; Ex. 1; Ex. 6, pp. 3-5).

The MassHealth representative stated that based on the appellant's testimony concerning meal preparation, she thought it was appropriate to offer an increase to 45 minutes per week for housekeeping. (Testimony). In answer to concerns the appellant raised, the MassHealth representative also stated that the time for housekeeping did not include clean up secondary to preparing and eating food, which was part of the time for meal preparation. (Testimony). This also did not include the time that was required to put away food that had been purchased, which would be considered part of assistance with shopping. (Testimony). The appellant indicated that although she was willing to accept 45 minutes per week for housekeeping, she also felt that her living space required an hour of clean up on a weekly basis. (Testimony).

## **Shopping**

The PCM agency requested 60 minutes per week for assistance with shopping because

Consumer requires maximum assistance with shopping tasks, she can make a list, ask for items, she cannot carry items, load/unload groceries, she has difficulty walking around stores for long periods of time d/t unsteadiness on feet, poor balance, very SOB w/ min exertion, fatigues very easily, dizziness w/ positional changes, left arm weakness (since open heart surgery last year), poor endurance and tolerance w/ activity, whole body weakness, decreased strength, forgetfulness, lack of motivation, energy, and concentration r/t heart disease, diabetes, depression, hx of MI (last year- open heart surgery a year ago), hx of TBI[.] (Testimony; Ex. 6, p. 33).

MassHealth modified this to 0 minutes per week because this is an IADL, the appellant lives with family members, and MassHealth expects family members to provide non-reimbursable assistance with IADLs in addition to the fact that the time requested was longer than ordinarily required for someone with the appellant's physical needs. (Testimony; Ex. 1; Ex. 6, pp. 3-5). The MassHealth representative stated that the documentation the PCM agency submitted indicated that the appellant was able to drive, and so the time required to drive to and from the store would not be considered when determining the total time needed for assistance. (Testimony).

The appellant stated the following in response. (Testimony). She explained that she sometimes struggles with driving and has not always been able to make it to physical therapy appointments. (Testimony). She can drive when she is able, but her ability to do so is inconsistent. (Testimony). For instance, the previous day, she did not have dinner properly, and at 8:00 p.m., someone had to go buy blueberries for her so she could eat before going to bed. (Testimony). Her ability to drive is inconsistent due to dizziness and weakness. (Testimony). These symptoms often force her to cancel appointments. (Testimony). While she can physically drive, when she is weak, dizzy, or experiencing an upset stomach, she is unable to do so. (Testimony). Occasionally, others can drive her, but this is not always possible. (Testimony). She emphasized that her physical condition is her primary concern, although her mental health also contributes. (Testimony). She noted the need to act quickly, as she may need to lie down otherwise. (Testimony).

The MassHealth representative stated that she could offer the appellant 30 minutes a week for assistance with shopping. (Testimony). The MassHealth representative acknowledged the appellant's testimony, stating that that it seemed that while the appellant was able to manage some of it, the appellant could not do it all on her own. (Testimony). The MassHealth representative also acknowledged that the appellant's husband was currently unable to assist her but believed that 30 minutes per week for her personal shopping needs should be sufficient. (Testimony).

The appellant disagreed with this assessment, explaining that a round-trip to the store takes 30 minutes. (Testimony).

## **Findings of Fact**

Based on a preponderance of the evidence, I find the following:

1. The appellant is an individual over the age of 65. (Testimony; Ex. 6, p. 10).
2. The appellant's primary diagnoses are diabetes, depression, history of myocardial infarction (open heart surgery a year ago), and history of traumatic brain injury. (Testimony; Ex. 6, p. 11).
3. On August 20, 2024, the PCM agency submitted an initial prior authorization request for 19 hours and 15 minutes per week of PCA services for one year. (Testimony; Ex. 1; Ex. 6, pp. 3-5).
4. In a notice dated August 26, 2024, MassHealth modified the time requested to 10 hours and 30 minutes per week for dates of service from August 26, 2024 through August 25, 2025. (Testimony; Ex. 1; Ex. 6, pp. 3-5).
5. Specifically, MassHealth modified the time requested for 11 ADLs and IADLs. (Testimony; Ex. 6, pp. 3-5).
6. During the course of the hearing and after considering the MassHealth representative's testimony, the appellant stated that she did not contest the modifications MassHealth made to the times requested for mobility/one person physical assist with stairs; bathing/physical assist with showering; grooming/hair; and grooming/other. (Testimony; Ex. 6, pp. 15-16, 18-19, 20).
7. The following modifications, however, remained in dispute by the end of the hearing:
  - A. Dressing and Undressing**
    1. The PCM agency requested 10 minutes, one time per day, seven days per week for physical assistance with dressing. (Testimony; Ex. 6, p. 22).



2. The PCM agency also requested eight minutes, one time per day, seven days per week for physical assistance with undressing. (Testimony; Ex. 6, p. 22).
3. According to the Occupational Therapy Functional Status Report the PCM agency submitted as part of this prior authorization, the appellant required minimum assistance with these ADLs. (Testimony; Ex. 6, pp. 6-7).
4. This meant that the appellant was able to do 75% of this ADL and needed assistance with the other 25%. (Testimony).
5. The MassHealth reviewer therefore modified the time requested for dressing to seven minutes, one time per day, seven days per week and for undressing to five minutes, one time per day, seven days per week. (Testimony; Ex. 1; Ex. 6, pp. 4-5).
6. In the notice under appeal, the MassHealth reviewer stated that the time requested for dressing and undressing were longer than ordinarily required with for someone with the appellant's physical needs. (Testimony; Ex. 1; Ex. 6, pp. 4-5).

**B. Medication assistance/prefill**

1. The PCM agency requested 10 minutes, one time per week for assisting the appellant with the pre-filling of a medication box. (Testimony; Ex. 6, p. 26).
2. The PCM agency stated that that the PCA was to fill weekly the appellant's medication planner and set reminders for her because of her forgetfulness with her medications and to ensure her medication compliance because of the appellant's history of traumatic brain injury and depression. (Testimony; Ex. 6, p. 26).
3. The MassHealth reviewer modified the time requested to 0 minutes because the appellant had the physical ability to perform this task with physical assistance. (Testimony; Ex. 1; Ex. 6, pp. 4-5).
4. The PCA program only pays for physical assistance with ADLs and IADLs. (Testimony).
5. Reminders are considered supervision or coaching, which are both non-covered services. (Testimony).

**C. Meal preparation**

1. The PCM agency requested 60 minutes per day (total), seven days per week for physical assistance with meal preparation. (Testimony; Ex. 6, p. 32).
2. This was broken down into 10 minutes per day for breakfast, 20 minutes per day for lunch, and 30 minutes per day for dinner. (Testimony; Ex. 6, p. 32).

3. The OT report submitted with the prior authorization does stated that the appellant requires maximum assistance with this and all other IADLs. (Testimony; Ex. 6, pp. 7).
4. The PCM agency also indicated that despite the fact the appellant lived with another legally responsible adult, there were special circumstances present that showed that the appellant still required PCA assistance with IADLs. (Testimony; Ex. 6, p. 30).
5. The MassHealth reviewer modified the total to 30 minutes per day because this was an IADL and since the appellant lived with family members, MassHealth expected those family members to provide non-reimbursable assistance with the appellant's IADLs. (Testimony; Ex. 1; Ex. 6, pp. 6-7).
6. The appellant maintains a vegetarian diet and due to the time-consuming nature of preparing Indian meals meal preparation is lengthy and challenging. (Testimony).
7. The appellant's health issues, which cause low stamina and her husband's inability to assist because of his own health problems also presents a challenge to meal preparation. (Testimony).
8. The MassHealth representative offered to adjust the modification to 45 minutes per day based on the appellant's testimony. (Testimony).

**D. Laundry**

1. The PCM agency requested 60 minutes per week for assistance with laundry, as the appellant cannot safely carry it upstairs from the basement due to poor balance, shortness of breath, fatigue, dizziness, and weakness, requiring PCA support to transport, fold, and put away the laundry, while the spouse is unable to assist due to his own health issues. (Testimony; Ex. 6, p. 33).
2. MassHealth modified the requested time to 30 minutes per week, citing the expectation that family members provide non-reimbursable assistance with instrumental activities of daily living and justifying the reduction by stating that the time requested exceeded what was typically needed for someone with the appellant's physical needs (Testimony; Ex. 1; Ex. 6, pp. 3-5).z
3. MassHealth considers the time for assistance with laundry as consisting of the time it takes to carry a load the downstairs to the washing machine, place it in the machine, take it out of the washing machine and put it into the dryer, take it out of the dryer, carry it upstairs, fold it, and put it away. (Testimony).
4. 30 minutes is considered enough time to do two loads of laundry, which is typically very sufficient for someone who does not have incontinence or other medical needs that generate a lot of laundry. (Testimony).

#### **E. Housekeeping**

1. The PCM agency requested 60 minutes per week for assistance with housekeeping because given her health conditions, the appellant cannot safely mop, vacuum, sweep, dust, and can only do light cleaning or organization while sitting down. (Testimony; Ex. 6, p.33).
2. The appellant's spouse unable to assist due to his own personal health issues. (Testimony; Ex. 6, p.33).
3. MassHealth modified the requested time to 30 minutes per week because meal preparation is an IADL, the appellant lives with family members who are expected to provide non-reimbursable assistance, and the requested time exceeded what is typically needed for someone with the appellant's physical needs. (Testimony; Ex. 1; Ex. 6, pp. 3-5).
4. Based on the appellant's testimony concerning meal preparation, the MassHealth representative offered to adjust the modification to 45 minutes per week. (Testimony).

#### **F. Shopping**

1. The PCM agency requested 60 minutes per week for assistance with shopping stating that the appellant required maximum assistance because she could not carry items, load or unload groceries, and had difficulty walking around stores for long periods of time but did state that she could make a list. (Testimony; Ex. 6, p. 33).
2. MassHealth modified this to 0 minutes per week because this is an IADL, the appellant lives with family members, and MassHealth expects family members to provide non-reimbursable assistance with IADLs in addition to the fact that the time requested was longer than ordinarily required for someone with the appellant's physical needs. (Testimony; Ex. 1; Ex. 6, pp. 3-5).
3. The documentation the PCM agency submitted indicated that the appellant was able to drive, and so the time required to drive to and from the store would not be considered when determining the total time needed for assistance. (Testimony).
4. Although the appellant does drive, her problems with endurance make it difficult for her to participate in shopping. (Testimony).
5. The MassHealth representative stated that based on the appellant's testimony she could offer the appellant 30 minutes a week for assistance with shopping. (Testimony).

## Analysis and Conclusions of Law

BOH will dismiss a request for a hearing when the request is withdrawn by the appellant. (130 CMR 610.035(A)(2)). At the hearing, the appellant stated that she did not object to MassHealth's modification to the times requested for mobility/one person physical assist with stairs; bathing/physical assist with showering; grooming/hair; and grooming/other. For that reason, the request for the hearing is hereby DISMISSED with regard to these ADLs.

The PCM agency must request prior authorization from the MassHealth agency as a prerequisite to payment for PCA services. (130 CMR 422.416(A)). Prior authorization determines only the medical necessity of the authorized service. (Id.). MassHealth covers activity time performed by a PCA in aiding with ADLs and IADLs. (130 CMR 422.411(A)). ADLs include certain specified activities that are fundamental to an individual's self-care and include physically assisting a member to take medications prescribed by a physician that otherwise would be self-administered as well as physically assisting a member dress and undress. (130 CMR 422.410(A)(2),(4)). IADLs are those specific activities that are instrumental but incidental to the care of the member's health and are performed by a PCA, including meal preparation, laundry, housekeeping, and shopping. (130 CMR 422.402; 422.410(B)(1),(2)).

MassHealth does not pay a provider for services that are not medically necessary and may impose sanctions on a provider for prescribing a service where such service is not medically necessary. (130 CMR 450.204). A service is medically necessary if, amongst other things, it is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a handicap, or result in illness or infirmity. (130 CMR 450.204(A)(1)).

The preponderance of the evidence does not support the medical necessity of the requested time for dressing and undressing. The PCM agency requested ten minutes per day for dressing and eight minutes per day for undressing. However, the record indicates that the appellant requires minimal assistance with these activities. A MassHealth representative, a certified occupational therapist, stated that the appellant is able to perform 75% of these ADLs independently and only requires assistance with 25%. Given these facts, MassHealth's decision to reduce the time for dressing and undressing to seven and five minutes per day, respectively, is supported by the evidence.

The preponderance of the evidence does not support the medical necessity of providing time for medication assistance in the form of pre-filling. The PCM agency requested 10 minutes per week to assist the appellant with filling their medication planner. However, the record indicates that the appellant possessed the physical capability to complete this task independently. The PCM agency further argued that the real need for assistance was related to the PCA setting reminders to ensure medication compliance. However, MassHealth regulations specify that assistance with cueing, prompting, supervision, guiding, or coaching is not a covered service (See 130 CMR 422.412(C)). Therefore, the evidence supports denying the request for time in this case.

The record does not support a greater need for assistance with laundry than the amount approved by MassHealth. The PCM agency requested 60 minutes per week for laundry assistance, but MassHealth reduced this to 30 minutes per week, noting that family members are expected to provide non-reimbursable assistance with instrumental activities of daily living and justifying the reduction by stating that the time requested exceeded typical needs for someone with the appellant's physical condition. After considering the appellant's testimony, the MassHealth representative acknowledged that while the appellant's husband lives with her, he is unable to assist with these tasks due to his own medical conditions. Nevertheless, the MassHealth representative indicated that 30 minutes was sufficient for a PCA to complete two loads of laundry. Laundry tasks include carrying loads to and from the washer and dryer, folding, and putting the laundry away. Since the appellant does not have a medical condition, such as incontinence, that would necessitate additional time for laundry assistance, and because the appellant could not explain why more than 30 minutes per week would be required, there is insufficient evidence to warrant overturning MassHealth's decision.

The evidence does not support the time requested by the PCM agency for meal preparation, housekeeping, and shopping. MassHealth reduced or denied the times requested for these IADLs, as they exceeded the typical duration needed for someone with the appellant's physical condition and because the appellant lives with family members who are expected to provide non-reimbursable assistance. However, after considering the appellant's testimony, the MassHealth representative acknowledged that while the appellant's husband lives with her, he is unable to assist with these tasks due to his own medical conditions. Furthermore, the MassHealth representative stated that in her professional assessment, the appellant required more assistance with these IADLs than initially approved, though not as much as originally requested. Therefore, the evidence supports adjusting the approved times for these IADLs to the levels proposed by the MassHealth representative in the hearing.

For the above reasons, the appeal is APPROVED IN PART with regard to the times requested for meal preparation, housekeeping, and shopping; DENIED with regard to the times requested for dressing, undressing, medication assistance/prefill, and laundry; and DISMISSED with regard to assistance with showering, grooming/hair, and grooming/other.

## **Order for MassHealth**

Modify the notice dated August 26, 2023 and approve the adjusted times for the following IADLs:

1. Meal preparation: 45 minutes per day, seven days per week;
2. Housekeeping: 45 minutes per week;
3. Shopping: 30 minutes per week.

All changes should be effective from August 26, 2024.

## **Notification of Your Right to Appeal to Court**

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

## **Implementation of this Decision**

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

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Scott Bernard  
Hearing Officer  
Board of Hearings

Cc:

Optum MassHealth LTSS, P.O. Box 159108, Boston, MA 02215